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Attorneys for the Arizona Independent Redistricting Commission

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Wesley W. Harris, *et al.*,

Plaintiffs,

vs.

Arizona Independent Redistricting
Commission,

Defendant.

No.: 2:12-CV-00894-ROS-NVW-RRC

**DEFENDANT ARIZONA INDEPENDENT
REDISTRICTING COMMISSION'S
STATEMENT OF DISCOVERY DISPUTE**

(ASSIGNED TO THREE-JUDGE PANEL)

1 Plaintiffs should not be permitted to depose D. J. Quinlan at this late date. First,
2 Mr. Quinlan's involvement with redistricting for the Democratic Party has been a matter
3 of public record since the early phases of the process. (See 9/26/11Tr;AIRCH0014252.)
4 Although Commissioner McNulty's testimony is new information, Mr. Quinlan's role
5 with the Democratic Party was well known to Plaintiffs and their attorneys, all of whom
6 attended Commission meetings and followed the process closely. If they wanted to
7 depose him, they should have made this desire known a long time ago.

8 Second, what matters here is the intent of the Commission, not third parties.
9 Plaintiffs' counsel has now had the opportunity to depose all five commissioners, and
10 deposing Mr. Quinlan adds nothing regarding the Commission's intent. Even if the
11 thumb drive with possible changes to Districts 8 and 11 were prepared with Mr.
12 Quinlan's assistance, nothing became part of the map until it was considered by the
13 Commission itself. If Plaintiffs want to argue partisan motivation, they can make that
14 argument based on the record and the Commissioners' testimony, as Plaintiffs have done
15 in their Statement about this discovery dispute. They do not need to depose Mr. Quinlan
16 to make that argument.

17 Moreover, although Plaintiffs questioned the Democratic Commissioners and the
18 chair in detail about their third-party contacts, they asked the Republican Commissioners
19 none of those questions. Permitting a deposition of one party official's involvement
20 does not make sense without digging into the other party's involvement as well.
21 Therefore, if discovery is going to be expanded to include Mr. Quinlan, the Commission
22 will also seek to depose John Mills, the former House of Representatives Republican
23 staff person who followed redistricting for his party. Tom Hofeller, for example, the
24 Plaintiffs' expert just turned over an e mail with John Mills. The better course, however,
25 is to limit the discovery to the depositions previously noticed. And, for the record,
26 although registration in the final map of LD 8 favored Democrats, registration alone
27 does not predict success. Actual election results suggested that it was a competitive
28 district that leans Republican. No further discovery is needed to tell this district's story.

1 RESPECTFULLY SUBMITTED this 12th day of March, 2013.

2 OSBORN MALEDON, P.A.

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13 *Attorneys for the Arizona Independent Redistricting*
14 *Commission and Commissioners Mathis, McNulty,*
15 *Herrera, Freeman, and Stertz solely in their official*
capacities

16
17 **CERTIFICATE OF SERVICE**

18 I hereby certify that on March 12, 2013, the attached document was electronically
19 transmitted to the Clerk of the Court using the CM/ECF System which will send
notification of such filing and transmittal of a Notice of Electronic Filing to all CM/ECF
20 registrants.

21 s/ Sara C. Sanchez
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